

REMARKS

This response is intended as a complete response to the Office Action dated April 7, 2009. In view of the following discussion, the Applicant believes that all claims are in allowable form.

CLAIM REJECTIONS

A. 35 USC §103 Claims 21-23, 25, 26 and 37-43

Claims 21-23, 25, 26, and 37-43 stand rejected under 35 USC. §103(a) as being unpatentable over United States Patent No. 5,970,157 issued October 19, 1999 to *Yoest* (hereinafter *Yoest*) in view of United States Patent No. 4,987,597 issued January 22, 1991 to *Haertl* (hereinafter *Haertl*). The Applicant respectfully disagrees. However, the Applicant has amended independent claims 21 and 37 to more clearly recite aspects of the present invention. Claim 42 has been amended in view of the amendment to claim 37.

Independent claims 21 and 37 recites limitations not taught, suggested, or otherwise led to by any combination of the cited art. *Yoest* teaches a hearing aid 10 having a shell 12 that supports or encloses a microphone 14, amplification circuitry, and a receiver 16. A receiver tube 22 coupled to the receiver 16 penetrates the shell 12 of the hearing aid 10. (*Yoest*, col. 3, ll. 48 – col. 4, l. 6; Fig. 2.) The receiver tube 22 may be removably coupled to the receiver 16, but is shown coupled to the shell 12 of the hearing aid 10. (*Id.*, Fig. 5A.) The receiver tube 1028 of *Yoest* is similarly described and shown as being coupled to a shell 1012 of a hearing aid 1010. (*Id.*, Fig. 16 and accompanying text.) An ear wax barrier 24 comprising a barrier screen 42 is positioned in the receiver tube 22 at a distal most portion 26 thereof. (*Id.*, Fig. 3, 3A.)

The Examiner contends that *Yoest* allegedly teaches that the receiver tube (22, 1028) is removably connectable to a hearing aid (10, 1010), citing figures 4, 5, 5A, 6 and 16. (*Office Action dated 04/07/09*, p. 2.) However, as discussed above, although the receiver tube (22, 1028) is removably coupled to the receiver (16, 1018), the receiver tube (22, 1028) is shown coupled to the shell

(12, 1012) of the hearing aid (10, 1010) and is not shown removably coupled to the hearing aid (10, 1010). Accordingly, *Yoezt* fails to teach a receiver tube removably connectable to a hearing aid, as recited in independent claims 21 and 37.

The Examiner admits that *Yoezt* fails to teach an ear wax trap comprising a microporous membrane as recited in independent claims 21 and 27. (*Office Action dated 04/07/2009*, page 2.) Accordingly, the Examiner cites *Haertl* to allegedly teach the limitations of a microporous membrane as recited in the claims 21 and 37. However, even if the Examiner's contention was correct, the combination of *Yoezt* and *Haertl* fails to disclose a receiver tube removably connectable to a hearing aid and a receiver of the hearing aid, as recited in independent claim 21; or a hearing aid comprising a receiver, and a receiver tube removably coupled to the hearing aid and the receiver, as recited in independent claim 37.

Haertl discloses an apparatus for closing openings of a hearing aid, such as sound openings. (*Haertl*, Abstract.) The hearing aid includes a housing 1 which has a sound exit nozzle 2 (e.g., a receiver tube) at one end and is covered at the opposite end by an end cover 3. An earphone 4 (e.g., a receiver) has an output side connect to the sound exit nozzle 2. (*Id.*, col. 2, l. 58 – col. 3, ll. 10; Fig 1.) The apparatus includes caps 12 and 13 which are respectively disposed over a sound exit nozzle 2 and a cover 3. (*Id.*) Caps 12, 13 each have microporous PTFE membranes 14. (*Id.*, col. 3, ll. 11-14.)

Haertl teaches the sound exit nozzle 2 (e.g., a receiver tube) is coupled to the output side of the earphone 4 (e.g., a receiver). Further, in a previous Office Action, the Examiner admits that *Haertl* fails to disclose a receiver tube (sound exit nozzle 2) removably coupled to the receiver (earphone 4). (*Office Action dated 05/02/2008*, page 4.) Accordingly, *Haertl* also fails to teach a receiver tube removably connectable to a hearing aid as recited in independent claim 21 and 37.

As such, the combination of *Heartl* and *Yoezt* fails to yield a receiver tube removably connectable to a hearing aid and a receiver of the hearing aid, as recited in claim 21; or a hearing aid comprising a receiver, and a receiver tube removably coupled to the hearing aid and the receiver, as recited in claim 37. As such, a *prima facie* case of obviousness has not been established as the combination of the cited art fails to yield the limitations recited in the claims.

Thus, claims 21-23, 25, 26, and 37-43 are patentable over *Yoezt* in view of *Haertl*. Accordingly, the Applicant respectfully requests that the rejection be withdrawn and the claims allowed.

ALLOWABLE SUBJECT MATTER

The Applicant thanks the Examiner for his comments regarding the allowability of claim 46 if re-written in independent form. However, in view of the above discussion, the Applicant respectfully submits that all claims are in condition for allowance.

CONCLUSION

Thus, the Applicant submits that all claims now pending are in condition for allowance. Accordingly, both further consideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that any unresolved issues still exist, it is requested that the Examiner telephone Alan Taboada at (732) 935-7100 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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